

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN SENATE JUNE 24, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 601**

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**Introduced by Assembly Member Eggman**  
**(Principal coauthor: Assembly Member Brown)**  
**(Coauthors: Assembly Members Calderon and Mark Stone)**  
**(Coauthor: Senator Block)**

February 24, 2015

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An act to amend Sections 1569.2, 1569.15, 1569.16, 1569.50, 1569.58, and 1569.618 of, and to add Section 1569.356 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 601, as amended, Eggman. Residential care facilities for the elderly: licensing and regulation.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure of residential care facilities for the elderly by the State Department of Social Services. Existing law requires any person seeking a license for a residential care facility for the elderly to file an application with the department, as specified. Among other required application information, if the applicant is a firm, association, organization, partnership, business trust, corporation, or company, evidence of reputable and responsible character is required to be submitted as to the members or shareholders thereof, and the person in charge of the residential care facility for the elderly for which the application for issuance of license or special permit is made.

This bill would, among other things, additionally require the applicant to disclose specified information, including whether it is a for-profit or not-for-profit provider, the name, address, and license number of other *health, residential, or* community care ~~or health care~~ facilities owned, managed, or operated by the same applicant or by any parent organization of the applicant, and the name and address of any person, organization, or entity that owns the real property in which specified facilities are located. The bill would require an applicant to provide additional information, including evidence of the right of possession of the facility prior to the time the license is granted. The bill would also require the department to cross-check specified applicant information, if electronically available, with the State Department of Public Health to determine if the applicant has a prior history of operating, holding a position in, or having ownership in, specified licensed facilities. The bill would require the information specified in these provisions to be provided to the department upon initial application for licensure, and any change in the information to be provided within 30 calendar days of the change, except as specified. The bill would ~~also require~~ *authorize* the department to assess an immediate civil penalty of \$1,000 for a violation of these provisions subsequent to licensure.

Existing law requires the Director of Social Services to establish an automated license information system on licensees and former licensees of licensed residential care facilities for the elderly. The system is required to maintain a record of any information that may be pertinent for licensure.

This bill would require, to the extent that the department's computer system can electronically accommodate additional information, the department to post on its Internet Web site specified information, including the current name, business address, and telephone number of the licensee.

Existing law authorizes the department to deny any application for a license to operate a residential care facility for the elderly or to suspend or revoke a license on certain grounds, including, but not limited to, a violation by the licensee of applicable provisions or of the rules and regulations adopted under those provisions, conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the state, or engaging in acts of financial malfeasance concerning the operation of a facility.

This bill would authorize those remedies to be applied if the department finds that specified persons or entities, including any

employee, administrator, partner, officer, director, member, or manager of the applicant or licensee, has engaged in any of those conducts relating to specified licensed facilities in California or any other state. The bill would also authorize the department to deny an application for licensure or to subsequently revoke a license if the applicant knowingly withheld material information, made a false statement of material fact with regard to information that was required by the application for licensure, or did not disclose administrative disciplinary actions on the application as required.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1569.2 of the Health and Safety Code is  
2 amended to read:  
3 1569.2. As used in this chapter:  
4 (a) “Administrator” means the individual designated by the  
5 licensee to act on behalf of the licensee in the overall management  
6 of the facility. The licensee, if an individual, and the administrator  
7 may be one and the same person.  
8 (b) “Beneficial ownership interest” means an ownership interest  
9 through the possession of stock, equity in capital or any interest  
10 in the profits of the applicant or licensee or through the possession  
11 of such an interest in other entities that directly or indirectly hold  
12 an interest in the applicant or licensee. The percentage of beneficial  
13 ownership in the applicant or licensee that is held by any other  
14 entity is determined by multiplying the other entities’ percentage  
15 of ownership interest at each level.  
16 (c) “Care and supervision” means the facility assumes  
17 responsibility for, or provides or promises to provide in the future,  
18 ongoing assistance with activities of daily living without which  
19 the resident’s physical health, mental health, safety, or welfare  
20 would be endangered. Assistance includes assistance with taking  
21 medications, money management, or personal care.  
22 (d) “Chain” means a group of two or more licensees that are  
23 controlled, as defined in this section, by the same person or entities.  
24 (e) “Control” means the ability to direct the operation or  
25 management of the applicant or licensee and includes the ability  
26 to exercise control through intermediary or subsidiary entities.

1 (f) “Department” means the State Department of Social Services.

2 (g) “Director” means the Director of Social Services.

3 (h) “Health-related services” mean services that shall be directly  
4 provided by an appropriate skilled professional, including a  
5 registered nurse, licensed vocational nurse, physical therapist, or  
6 occupational therapist.

7 (i) “Instrumental activities of daily living” means any of the  
8 following: housework, meals, laundry, taking of medication, money  
9 management, appropriate transportation, correspondence,  
10 telephoning, and related tasks.

11 (j) “License” means a basic permit to operate a residential care  
12 facility for the elderly.

13 (k) “Parent organization” means an organization in control of  
14 another organization either directly or through one or more  
15 intermediaries.

16 (l) “Personal activities of daily living” means any of the  
17 following: dressing, feeding, toileting, bathing, grooming, and  
18 mobility and associated tasks.

19 (m) “Personal care” means assistance with personal activities  
20 of daily living, to help provide for and maintain physical and  
21 psychosocial comfort.

22 (n) “Protective supervision” means observing and assisting  
23 confused residents, including persons with dementia, to safeguard  
24 them against injury.

25 (o) (1) “Residential care facility for the elderly” means a  
26 housing arrangement chosen voluntarily by persons 60 years of  
27 age or over, or their authorized representative, where varying levels  
28 and intensities of care and supervision, protective supervision, or  
29 personal care are provided, based upon their varying needs, as  
30 determined in order to be admitted and to remain in the facility.  
31 Persons under 60 years of age with compatible needs may be  
32 allowed to be admitted or retained in a residential care facility for  
33 the elderly as specified in Section 1569.316.

34 (2) This subdivision shall be operative only until the enactment  
35 of legislation implementing the three levels of care in residential  
36 care facilities for the elderly pursuant to Section 1569.70.

37 (p) “Residential care facility for the elderly” means a housing  
38 arrangement chosen voluntarily by persons 60 years of age or over,  
39 or their authorized representative, where varying levels and  
40 intensities of care and supervision, protective supervision, personal

1 care, or health-related services are provided, based upon their  
2 varying needs, as determined in order to be admitted and to remain  
3 in the facility. Persons under 60 years of age with compatible needs  
4 may be allowed to be admitted or retained in a residential care  
5 facility for the elderly as specified in Section 1569.316.

6 This subdivision shall become operative upon the enactment of  
7 legislation implementing the three levels of care in residential care  
8 facilities for the elderly pursuant to Section 1569.70.

9 (q) "Sundowning" means a condition in which persons with  
10 cognitive impairment experience recurring confusion,  
11 disorientation, and increasing levels of agitation that coincide with  
12 the onset of late afternoon and early evening.

13 (r) "Supportive services" means resources available to the  
14 resident in the community that help to maintain their functional  
15 ability and meet their needs as identified in the individual resident  
16 assessment. Supportive services may include any of the following:  
17 medical, dental, and other health care services; transportation;  
18 recreational and leisure activities; social services; and counseling  
19 services.

20 SEC. 2. Section 1569.15 of the Health and Safety Code is  
21 amended to read:

22 1569.15. (a) Any person seeking a license for a residential  
23 care facility for the elderly under this chapter shall file with the  
24 department, pursuant to regulations, an application on forms  
25 furnished by the department, that shall include, but not be limited  
26 to, all of the following:

27 (1) Evidence satisfactory to the department of the ability of the  
28 applicant to comply with this chapter and of rules and regulations  
29 adopted under this chapter by the department.

30 (2) Evidence satisfactory to the department that the applicant  
31 is of reputable and responsible character. The evidence shall  
32 include, but not be limited to, a criminal record clearance pursuant  
33 to Section 1569.17, employment history, and character references.  
34 If the applicant is a firm, association, organization, partnership,  
35 business trust, corporation, or company, like evidence shall be  
36 submitted as to the individuals or entities holding a beneficial  
37 ownership interest of 10 percent or more, and the person who has  
38 operational control of the residential care facility for the elderly  
39 for which the application for issuance of license or special permit  
40 is made. Notwithstanding anything in this section, an applicant or

1 licensee is not required to disclose the names of investors in a  
2 publicly traded company or investment fund if those investors are  
3 silent investors who do not have influence or control over ~~the~~  
4 ~~investments or operations of the company or fund.~~ *company, fund,*  
5 *or facility.*

6 (3) If applicable, the following information:

7 (A) Whether it is a for-profit or not-for-profit provider.

8 (B) The name, address, license number, and licensing agency  
9 name of other *health, residential, or* community care ~~or health~~  
10 ~~care~~ facilities owned, managed, or operated by the same applicant  
11 or by any parent organization of the applicant.

12 (C) The name and business address of any person or entity that  
13 controls, as defined in Section 1569.2, the applicant.

14 (D) If part of a chain, as defined in Section 1569.2, a diagram  
15 indicating the relationship between the applicant and the persons  
16 or entities that are part of the chain, including those that are  
17 controlled by the same parties, and in a separate list, the name,  
18 address, and license number, if applicable, for each person or entity  
19 in the diagram.

20 (E) The name and address of any persons, organizations, or  
21 entities that own the real property on which the facility seeking  
22 licensure and the licensed facilities described in subparagraph (B)  
23 are located.

24 (F) The name and address of any management company serving  
25 the facility and the same information required of applicants in  
26 subparagraphs (C) and (D) for the management company.

27 (4) Evidence satisfactory to the department that the applicant  
28 has sufficient financial resources to maintain the standards of  
29 service required by regulations adopted pursuant to this chapter.

30 (5) The name of the person with operational control of the  
31 applicant, such as the chief executive officer, general partner,  
32 owner or like party, and state that person's prior or present service  
33 as an administrator, chief executive officer, general partner, director  
34 like role of, or as a person who has held or holds a beneficial  
35 ownership interest of 10 percent or more in, any residential care  
36 facility for the elderly, in any facility licensed pursuant to Chapter  
37 1 (commencing with Section 1200), Chapter 2 (commencing with  
38 Section 1250), or Chapter 3 (commencing with Section 1500), or  
39 a similarly licensed facility in California or any other state within  
40 the past 10 years.

1 (6) The following information regarding the applicant and each  
2 individual or entity identified pursuant to paragraph (5):

3 (A) Any revocation, suspension, probation, exclusion order, or  
4 other similar administrative disciplinary action that was filed and  
5 sustained in California or any other state, or in the process of being  
6 adjudicated, against a facility associated with a person identified  
7 pursuant to paragraph (5) or by any authority responsible for the  
8 licensing of health, residential, or community care facilities within  
9 the past 10 years.

10 (B) Copies of final findings, orders, or both, issued by any  
11 health, residential, or community care licensing agency or any  
12 court relevant to the actions described in subparagraph (A).

13 (C) Any petition for bankruptcy relief filed within five years of  
14 the date of application involving operation or closure of a *health,*  
15 *residential, or* community care facility licensed in California or  
16 any other state, the court, date, and case number of the filing, and  
17 whether a discharge was granted. If a discharge was not granted,  
18 the applicant shall provide copies of any court findings supporting  
19 denial of discharge.

20 (7) Any other information as may be required by the department  
21 for the proper administration and enforcement of this chapter.

22 (8) Following the implementation of Article 7 (commencing  
23 with Section 1569.70), evidence satisfactory to the department of  
24 the applicant's ability to meet regulatory requirements for the level  
25 of care the facility intends to provide.

26 (9) Evidence satisfactory to the department of adequate  
27 knowledge of supportive services and other community supports  
28 that may be necessary to meet the needs of elderly residents.

29 (10) A signed statement that the person desiring issuance of a  
30 license has read and understood the residential care facility for the  
31 elderly statute and regulations.

32 (11) Designation by the applicant of the individual who shall  
33 be the administrator of the facility, including, if the applicant is  
34 an individual, whether or not the applicant shall also be the  
35 administrator.

36 (12) Evidence of the right of possession of the facility prior to  
37 the time the license is granted, which may be satisfied by the  
38 submission of a copy of the entire lease agreement or deed.

39 (13) Evidence of successfully completing a certified prelicensure  
40 education program pursuant to Section 1569.23.

1 (14) For any facility that promotes or advertises or plans to  
2 promote or advertise special care, special programming, or special  
3 environments for persons with dementia, disclosure to the  
4 department of the special features of the facility in its plan of  
5 operation.

6 (b) The department shall cross-check all applicant information  
7 disclosed pursuant to paragraph (5) of subdivision (a), if  
8 electronically available, with the State Department of Public Health  
9 to determine if the applicant has a prior history of operating,  
10 holding a position in, or having ownership in, any entity specified  
11 in paragraph (5) of subdivision (a).

12 (c) Failure of the applicant to cooperate with the licensing  
13 agency in the completion of the application may result in the denial  
14 of the application. Failure to cooperate means that the information  
15 described in this section and in the regulations of the department  
16 has not been provided, or has not been provided in the form  
17 requested by the licensing agency, or both.

18 (d) The information required by this section shall be provided  
19 to the department upon initial application for licensure, and any  
20 change in the information shall be provided to the department  
21 within 30 calendar days of that change unless a shorter timeframe  
22 is required by the department. A licensee of multiple facilities may  
23 provide a single notice of changes to the department on behalf of  
24 all licensed facilities within the chain. Information pertaining to  
25 facilities operated in other states may be updated on an annual  
26 basis, ~~except for the following information shall be provided within~~  
27 ~~30 calendar days of the change:~~ *information:*

28 (1) Information specified in paragraph (6) of subdivision (a):  
29 *(a) shall be updated within 30 calendar days of the change.*

30 ~~(2) Information regarding newly acquired community care or~~  
31 ~~health care facilities owned, managed, or operated by the licensee~~  
32 ~~or by any parent organization of the licensee.~~

33 *(2) Information specified in subparagraph (B) of paragraph (3)*  
34 *of subdivision (a) shall be updated within six months after the*  
35 *change.*

36 (e) An applicant or licensee shall maintain an email address of  
37 record with the department. The applicant or licensee shall provide  
38 written notification to the department of the email address and of  
39 any change to the email address within 10 business days of the  
40 change.



1 (f) (1) The department may deny an application for licensure  
2 or may subsequently revoke a license under this chapter if the  
3 applicant knowingly withheld material information or made a false  
4 statement of material fact with regard to information that was  
5 required by the application for licensure.

6 (2) The department may deny an application for licensure or  
7 may subsequently revoke a license under this chapter if the  
8 applicant did not disclose administrative disciplinary actions on  
9 the application as required by paragraph (6) of subdivision (a).

10 (3) In addition to the remedies provided under this chapter, the  
11 department ~~shall~~, *may*, subsequent to licensure, assess a civil  
12 penalty of one thousand dollars (\$1,000) for a material violation  
13 of this section.

14 SEC. 3. Section 1569.16 of the Health and Safety Code is  
15 amended to read:

16 1569.16. (a) (1) If an application for a license indicates, or  
17 the department determines during the application review process,  
18 that the applicant previously was issued a license under this chapter  
19 or under Chapter 1 (commencing with Section 1200), Chapter 2  
20 (commencing with Section 1250), Chapter 3 (commencing with  
21 Section 1500), Chapter 3.01 (commencing with Section 1568.01),  
22 Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5  
23 (commencing with Section 1596.90), or Chapter 3.6 (commencing  
24 with Section 1597.30) and the prior license was revoked within  
25 the preceding two years, the department shall cease any further  
26 review of the application until two years have elapsed from the  
27 date of the revocation. All residential care facilities for the elderly  
28 are exempt from the health planning requirements contained in  
29 Part 2 (commencing with Section 127125) of Division 107.

30 (2) If an application for a license or special permit indicates, or  
31 the department determines during the application review process,  
32 that the applicant previously was issued a certificate of approval  
33 by a foster family agency that was revoked by the department  
34 pursuant to subdivision (b) of Section 1534 within the preceding  
35 two years, the department shall cease any further review of the  
36 application until two years shall have elapsed from the date of the  
37 revocation.

38 (3) If an application for a license or special permit indicates, or  
39 the department determines during the application review process,  
40 that the applicant was excluded from a facility licensed by the

1 department pursuant to Section 1558, 1568.092, 1569.58, or  
2 1596.8897, the department shall cease any further review of the  
3 application unless the excluded individual has been reinstated  
4 pursuant to Section 11522 of the Government Code by the  
5 department.

6 (b) If an application for a license or special permit indicates, or  
7 the department determines during the application review process,  
8 that the applicant had previously applied for a license under any  
9 of the chapters listed in paragraph (1) of subdivision (a) and the  
10 application was denied within the last year, the department shall,  
11 except as provided in Section 1569.22, cease further review of the  
12 application until one year has elapsed from the date of the denial  
13 letter. In those circumstances where denials are appealed and  
14 upheld at an administrative hearing, review of the application shall  
15 cease for one year from the date of the decision and order being  
16 rendered by the department. The cessation of review shall not  
17 constitute a denial of the application. If there are coapplicants and  
18 the department denies a license due to concerns pertaining solely  
19 to one of the coapplicants, any other coapplicant may withdraw  
20 its application, and with the department's written consent pursuant  
21 to Section 1569.52, shall not be deemed to have a license  
22 application denied.

23 (c) If an application for a license or special permit indicates, or  
24 the department determines during the application review process,  
25 that the applicant had previously applied for a certificate of  
26 approval with a foster family agency and the department ordered  
27 the foster family agency to deny the application pursuant to  
28 subdivision (b) of Section 1534, the department shall cease further  
29 review of the application as follows:

30 (1) In cases where the applicant petitioned for a hearing, the  
31 department shall cease further review of the application until one  
32 year has elapsed from the effective date of the decision and order  
33 of the department upholding a denial.

34 (2) In cases where the department informed the applicant of his  
35 or her right to petition for a hearing and the applicant did not  
36 petition for a hearing, the department shall cease further review  
37 of the application until one year has elapsed from the date of the  
38 notification of the denial and the right to petition for a hearing.

39 (3) The department may continue to review the application if  
40 it has determined that the reasons for the denial of the application

1 were due to circumstances and conditions that either have been  
2 corrected or are no longer in existence.

3 (d) The cessation of review shall not constitute a denial of the  
4 application for purposes of Section 1526 or any other law.

5 SEC. 4. Section 1569.356 is added to the Health and Safety  
6 Code, to read:

7 1569.356. To the extent that the department's computer system  
8 can electronically accommodate additional residential care facility  
9 for the elderly profile information, the department shall post on  
10 its Internet Web site the current name, business address, and  
11 telephone number of the licensee, the name of the owner of the  
12 residential care facility for the elderly, if not the same as the  
13 licensee, the name of any parent organization, the licensed capacity  
14 of the facility, including the capacity for nonambulatory residents,  
15 whether the facility is permitted to accept and retain residents  
16 receiving hospice care services, whether the facility has a special  
17 care unit or program for people with Alzheimer's disease and other  
18 dementias and has a delayed egress or secured perimeter system  
19 in place, or both, and information required pursuant to  
20 subparagraph (B) of paragraph (3) of subdivision (a) of Section  
21 1569.15.

22 SEC. 5. Section 1569.50 of the Health and Safety Code is  
23 amended to read:

24 1569.50. (a) The department may deny an application for a  
25 license or may suspend or revoke a license issued under this chapter  
26 upon any of the following grounds and in the manner provided in  
27 this chapter:

28 (1) Violation by the licensee of this chapter or of the rules and  
29 regulations adopted under this chapter.

30 (2) Aiding, abetting, or permitting the violation of this chapter  
31 or of the rules and regulations adopted under this chapter.

32 (3) Conduct that is inimical to the health, morals, welfare, or  
33 safety of either an individual in or receiving services from the  
34 facility or the people of the State of California.

35 (4) The conviction of a licensee, or other person mentioned in  
36 Section 1569.17 at any time before or during licensure, of a crime  
37 as defined in Section 1569.17.

38 (5) Engaging in acts of financial malfeasance concerning the  
39 operation of a facility, including, but not limited to, improper use  
40 or embezzlement of client moneys and property or fraudulent

1 appropriation for personal gain of facility moneys and property,  
2 or willful or negligent failure to provide services for the care of  
3 clients.

4 (b) The remedies provided in this section may be applied if the  
5 department finds that any employee, administrator, partner, officer,  
6 director, member, or manager of the applicant or licensee, any  
7 person who controls, as defined in Section 1569.2, the licensee,  
8 or any person who holds a beneficial ownership interest of 10  
9 percent or more in the applicant or licensee has engaged in the  
10 conduct described in subdivision (a) related to any facility licensed  
11 pursuant to Chapter 1 (commencing with Section 1200), Chapter  
12 2 (commencing with Section 1250), or Chapter 3 (commencing  
13 with Section 1500), or a similarly licensed facility in California  
14 or any other state.

15 (c) The director may temporarily suspend a license, prior to a  
16 hearing when, in the opinion of the director, the action is necessary  
17 to protect residents or clients of the facility from physical or mental  
18 abuse, abandonment, or any other substantial threat to health or  
19 safety. The director shall notify the licensee of the temporary  
20 suspension and the effective date of the temporary suspension and  
21 at the same time shall serve the provider with an accusation. Upon  
22 receipt of a notice of defense to the accusation by the licensee, the  
23 director shall, within 15 days, set the matter for hearing, and the  
24 hearing shall be held as soon as possible but not later than 30 days  
25 after receipt of the notice. The temporary suspension shall remain  
26 in effect until the time the hearing is completed and the director  
27 has made a final determination on the merits. However, the  
28 temporary suspension shall be deemed vacated if the director fails  
29 to make a final determination on the merits within 30 days after  
30 the original hearing has been completed.

31 (d) A licensee who abandons the facility and the residents in  
32 care resulting in an immediate and substantial threat to the health  
33 and safety of the abandoned residents, in addition to revocation of  
34 the license pursuant to this section, shall be excluded from licensure  
35 in facilities licensed by the department without the right to petition  
36 for reinstatement.

37 SEC. 6. Section 1569.58 of the Health and Safety Code is  
38 amended to read:

39 1569.58. (a) The department may prohibit any person from  
40 being a licensee, owning a beneficial ownership interest of 10

1 percent or more in a licensed facility, or being an administrator,  
2 officer, director, member, or manager of a licensee or entity  
3 controlling a licensee, and may further prohibit any licensee from  
4 employing, or continuing the employment of, or allowing in a  
5 licensed facility, or allowing contact with clients of a licensed  
6 facility by, any employee, prospective employee, or person who  
7 is not a client and who has done any of the following:

8 (1) Violated, or aided or permitted the violation by any other  
9 person of, any provisions of this chapter or of any rules or  
10 regulations promulgated under this chapter.

11 (2) Engaged in conduct that is inimical to the health, morals,  
12 welfare, or safety of either an individual in or receiving services  
13 from the facility, or the people of the State of California.

14 (3) Been denied an exemption to work or to be present in a  
15 facility, when that person has been convicted of a crime as defined  
16 in Section 1569.17.

17 (4) Engaged in any other conduct that would constitute a basis  
18 for disciplining a licensee.

19 (5) Engaged in acts of financial malfeasance concerning the  
20 operation of a facility, including, but not limited to, improper use  
21 or embezzlement of client moneys and property or fraudulent  
22 appropriation for personal gain of facility moneys and property,  
23 or willful or negligent failure to provide services for the care of  
24 clients.

25 (b) The excluded person, the facility, and the licensee shall be  
26 given written notice of the basis of the department's action and of  
27 the excluded person's right to an appeal. The notice shall be served  
28 either by personal service or by registered mail. Within 15 days  
29 after the department serves the notice, the excluded person may  
30 file with the department a written appeal of the exclusion order.  
31 If the excluded person fails to file a written appeal within the  
32 prescribed time, the department's action shall be final.

33 (c) (1) The department may require the immediate removal of  
34 a member of the board of directors, an executive director, or an  
35 officer of a licensee or exclusion of an employee, prospective  
36 employee, or person who is not a client from a facility pending a  
37 final decision of the matter, when, in the opinion of the director,  
38 the action is necessary to protect residents or clients from physical  
39 or mental abuse, abandonment, or any other substantial threat to  
40 their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility the department shall serve an order of immediate exclusion upon the excluded person that shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense by the excluded person pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided

1 by this section. The department may enter an order prohibiting  
2 any person from being a member of the board of directors, an  
3 executive director, or an officer of a licensee, or prohibiting the  
4 excluded person's employment or presence in the facility, or  
5 otherwise take disciplinary action against the excluded person,  
6 notwithstanding any resignation, withdrawal of employment  
7 application, or change of duties by the excluded person, or any  
8 discharge, failure to hire, or reassignment of the excluded person  
9 by the licensee or that the excluded person no longer has contact  
10 with clients at the facility.

11 (g) A licensee's failure to comply with the department's  
12 exclusion order after being notified of the order shall be grounds  
13 for disciplining the licensee pursuant to Section 1569.50.

14 (h) (1) (A) In cases where the excluded person appealed the  
15 exclusion order and there is a decision and order of the department  
16 upholding the exclusion order, the person shall be prohibited from  
17 working in any facility or being licensed to operate any facility  
18 licensed by the department or from being a certified foster parent  
19 for the remainder of the excluded person's life, unless otherwise  
20 ordered by the department.

21 (B) The excluded individual may petition for reinstatement one  
22 year after the effective date of the decision and order of the  
23 department upholding the exclusion order pursuant to Section  
24 11522 of the Government Code. The department shall provide the  
25 excluded person with a copy of Section 11522 of the Government  
26 Code with the decision and order.

27 (2) (A) In cases where the department informed the excluded  
28 person of his or her right to appeal the exclusion order and the  
29 excluded person did not appeal the exclusion order, the person  
30 shall be prohibited from working in any facility or being licensed  
31 to operate any facility licensed by the department or a certified  
32 foster parent for the remainder of the excluded person's life, unless  
33 otherwise ordered by the department.

34 (B) The excluded individual may petition for reinstatement after  
35 one year has elapsed from the date of the notification of the  
36 exclusion order pursuant to Section 11522 of the Government  
37 Code. The department shall provide the excluded person with a  
38 copy of Section 11522 of the Government Code with the exclusion  
39 order.

SEC. 7. Section 1569.618 of the Health and Safety Code is amended to read:

1569.618. (a) The administrator designated by the licensee pursuant to paragraph (11) of subdivision (a) of Section 1569.15 shall be present at the facility during normal working hours. A facility manager designated by the licensee with notice to the department, shall be responsible for the operation of the facility when the administrator is temporarily absent from the facility.

(b) At least one administrator, facility manager, or designated substitute who is at least 21 years of age and has qualifications adequate to be responsible and accountable for the management and administration of the facility pursuant to Title 22 of the California Code of Regulations shall be on the premises 24 hours per day. The designated substitute may be a direct care staff member who shall not be required to meet the educational, certification, or training requirements of an administrator. The designated substitute shall meet qualifications that include, but are not limited to, all of the following:

(1) Knowledge of the requirements for providing care and supervision appropriate to each resident of the facility.

(2) Familiarity with the facility's planned emergency procedures.

(3) Training to effectively interact with emergency personnel in the event of an emergency call, including an ability to provide a resident's medical records to emergency responders.

(c) The facility shall employ, and the administrator shall schedule, a sufficient number of staff members to do all of the following:

(1) Provide the care required in each resident's written record of care as described in Section 1569.80.

(2) Ensure the health, safety, comfort, and supervision of the residents.

(3) Ensure that at least one staff member who has cardiopulmonary resuscitation (CPR) training and first aid training is on duty and on the premises at all times. This paragraph shall not be construed to require staff to provide CPR.

(4) Ensure that the facility is clean, safe, sanitary, and in good repair at all times.

(d) "Facility manager" means a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a residential care facility for the elderly



1 and supervise the clients. The facility manager, licensee, and  
2 administrator, or any combination thereof, may be the same person  
3 provided he or she meets all applicable requirements. If the  
4 administrator is also the facility manager for the same facility, he  
5 or she shall be limited to the administration and management of  
6 only one facility.

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